In The

United States Court of Appeals

For The Fourth Circuit

SAS INSTITUTE, INC.,

Plaintiff - Appellee,

V.

WORLD PROGRAMMING LIMITED,

Defendant - Appellant.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA AT RALEIGH

BRIEF OF APPELLEE

Pressly M. Millen
Raymond M. Bennett
Samuel B. Hartzell
WOMBLE BOND DICKINSON (US) LLP
555 Fayetteville Street, Suite 1100
Raleigh, North Carolina 27601
(919) 755-2158

Counsel for Appellee



USCA4 Appeal: 19-1290 Doc: 7 Filed: 04/02/2019 Pg: 1 of 2

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of <u>all</u> parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No.	19-1290	Caption:	SAS Institute Inc. v. World Programming Limited	
Purs	uant to FRAP 2	6.1 and Local	Rule 26.1,	
SAS	Institute Inc.			
(nan	ne of party/amic	us)		
			, makes the following disclosure: condent/amicus/intervenor)	
1.	Is party/amio	cus a publicly l	held corporation or other publicly held entity?]YES 🗾 NO
2.			ny parent corporations? corporations, including all generations of parent cor	YES NO
3.	other publicl	ore of the stock y held entity? fy all such ow		oration or]YES ☑ NO





(signature)

April 2, 2019

(date)

TABLE OF CONTENTS

	<u>P</u>	<u>age</u>			
TABLE OF	AUTHORITIES	iv			
INTRODU	CTION	1			
STATEME	NT OF THE CASE	3			
A.	The Underlying Action, Judgment, and Appeal				
	i. SAS's Litigation in the U.S. and U.K. against WPL	3			
	ii. The Appeal	5			
	1. SAS's Appeal of the Permanent Injunction Denial	5			
	2. WPL's Appeal on Preclusion and Evidentiary Grounds	6			
В.	After Appeal, Evidence of WPL's Financial Position and Intent to Avoid the Judgment in the U.K. Becomes Clear				
C.	SAS Initiates Enforcement Proceedings in California				
D.	Proceedings in the U.K. Court	11			
	i. The U.K. Court Refuses to Enforce Any Portion of SAS's Judgment	11			
	ii. The U.K. Court Orders SAS to Return Two-Thirds of All Collections, Including the Bond and Escrow Payments Imposed as Security for WPL's Appeal	13			
	iii. The U.K. Court's <i>Ex Parte</i> Injunction against SAS	13			
E.	WPL Changes Its License Agreement to Thwart the U.S. Judgment	16			



F.	SAS Seeks Relief under the All Writs Act and Rule 60				
G.	The District Court's Order and Opinion				
	Anti-Clawback Injunction	19			
	ii.	ii. The U.SExpansion Injunction			
		1.	Under the AWA	19	
		2.	Under Rule 60(b)(6)	21	
Н.	SAS	's Coll	ections	22	
SUMMAF	RY OF	ARGU	JMENT	24	
ARGUME	ENT			26	
I.	THE ALL WRITS ACT AUTHORIZED THE ANTI- CLAWBACK AND U.SEXPANSION INJUNCTIONS				
	A.	The District Court Did Not Abuse Its Discretion When Defending Its Judgment from Being Undermined by the U.K. Clawback			
		i.	The District Court Had Authority under the AWA to Issue the Anti-Clawback Injunction	27	
		ii.	Comity Did Not Require the District Court to Defer to WPL's Collateral Attack	31	
		iii.	WPL's Notice and Vagueness Objections to the Anti-Clawback Injunction Are Inconsistent with the Record and Would Not Justify Reversal in Any Event	33	
B. The District Court Acted within Its AWA Discretion Enjoining WPL's Expansion in the U.S. Market while Judgment Remains Unsatisfied				35	



DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

